COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SEPARATION OF COSTS OF REGULATED TELEPHONE SERVICE FROM COSTS OF NONREGULATED ACTIVITIES	)))	ADMINISTRATIVE CASE NO. 362

O R D E R

On December 24, 1996, the Federal Communications Commission ("FCC") issued its Order 96-490 ("the Order") to address the accounting safeguards necessary to satisfy the requirements of Sections 260 and 271 through 276 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("the Act"). The Order affirmed the FCC's position that the primary goal behind the existing Cost Allocation Manuals ("CAMs") and affiliated transaction rules was to prevent cross-subsidization and protect regulated service ratepayers from bearing the risks and costs of a carrier's nonregulated ventures. The Order also emphasized that cost allocation rules will become more important as incumbent local exchange carriers ("ILECs") enter into an increasing number of nonregulated activities that are subject to competition. As stated in Section 254(k) of the Act, "a telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition." The FCC noted that the provisions of the Order were to extend to all ILECs. At paragraph 42 of the Order, the FCC concluded that these sections of the Act extend to intrastate service and that the Commission has jurisdiction under cross-subsidization prohibitions contained in those sections to adopt regulations governing intrastate services.

This Commission shares the concerns of the FCC regarding cross-subsidies and ratepayer protection. Therefore, on its own motion, the Commission hereby initiates this proceeding to address the *mirroring* of FCC rules for companies not required to file CAMs with the FCC and the need for modifications to the CAMs currently in effect for carriers in Kentucky. This proceeding will address the CAMs of all ILECs, including those companies that are not required to file CAMs with the FCC for approval. This Order is being issued as a means of gathering information and comment on the items included herein.

BACKGROUND

On December 29, 1987, the Commission initiated Administrative Case No. 321[1] to investigate the need for procedures for the separation of costs of regulated telephone service from nonregulated activities of Kentucky telephone companies and their affiliates. This case was a direct result of an FCC initiative to investigate the same issues[2] which resulted in the adoption of CAMs for all TIER I companies and the establishment of affiliated transaction rules.

1 Administrative Case No. 321, Separation of Costs of Regulated Telephone Service From Costs of Nonregulated Activities.

2 CC Docket 86-111, "Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities."

On May 20, 1988, the Commission, in response to a motion by the companies comprising the Independent Telephone Group ("ITG"),[3] determined that the case should proceed in two phases. One phase, or Group I, would include all companies required to file CAMs with the FCC,[4] plus Continental Telephone Company ("Contel"), ALLTEL Kentucky, Inc. ("ALLTEL"), and subsequently, Telephone and Data Systems ("TDS"). The other phase included only the ITG (Group II). The ITG developed a CAM for its members which, with some modifications, was adopted by the Commission. By Order dated December 22, 1988, the Commission accepted the cost allocation methodologies submitted by the ITG and that phase of the case was closed.

On June 26, 1989, the Commission ordered all companies included in Group I to submit their most current CAM plus any revisions, modifications, and FCC memorandums or orders associated with the CAMs. On August 30, 1989, those companies were ordered to appear at informal conferences and to provide copies of relevant informational material.

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3 Ballard Rural Telephone Cooperative; Brandenburg Telephone Company, Inc.; Duo County Telephone Cooperative Corporation, Inc.; Foothills Rural Telephone Cooperative Corporation, Inc.; Harold Telephone Company, Inc.; Highland Telephone Cooperative, Inc.; Logan Telephone Cooperative, Inc.; Mountain Rural Telephone Cooperative Corporation; North Central Telephone Cooperative, Inc.; Peoples Rural Telephone Cooperative Corporation, Inc.; South Central Rural Telephone Cooperative Corporation, Inc.; Thacker-Grigsby Telephone Company, Inc.; and West Kentucky Rural Telephone Cooperative Corporation, Inc.

4 TIER I Companies: BellSouth Telecommunications, Inc. ("BellSouth"), GTE South Incorporated ("GTE"), Cincinnati Bell Telephone Company ("CBT"), and AT&T Communications of the South Central States, Inc. ("AT&T").

On March 26, 1990, the Commission accepted the Group I CAMs, in principle, although it was not in total agreement with all content of the CAMs. It also ordered all companies that file CAMs with the FCC for approval to file any revisions or modifications to the CAMs with this Commission, simultaneously with the FCC filing; to file within 10 days of receipt any FCC orders, comments, or responses pertaining to any revision or modifications of the CAMs; and to file copies of the most recent CAM Attestation Audit within 10 days of the final audit report. Companies not subject to FCC filing requirements, including the ITG, were ordered to file with this Commission revised CAMs, or changes or modifications thereto, prior to the implementation of any accounting changes.

On January 5, 1996, in response to a request made by BellSouth Telecommunications, Inc. ("BellSouth"), the Commission relieved the Group I companies of the filing requirements ordered on March 26, 1989. Group I companies were required however, to maintain a current copy of their CAM at their offices for staff review.

DISCUSSION

The FCC's Order addresses the cost allocation requirements for services discussed in the Act which include (1) Telemarketing Services; (2) Interlata Services; (3) BOC Manufacturing; (4) BOC Electronic Publishing; (5) Alarm Monitoring Services; and (6) Payphone Services. The Order also discusses separate affiliate safeguards.

The TIER I companies are required to file CAMs with the FCC. Although this Commission has relieved these companies from filing CAMs and related materials, because of the magnitude of the changes required by the Act, these companies should file any changes or modifications to the CAMs relating to the issues in 96-490 with this Commission simultaneously with any such filings made with the FCC.

There are seventeen local exchange companies operating in Kentucky which are not required to file CAMs with the FCC. These companies include ALLTEL, TDS,[5] and the ITG. As these companies enter into the competitive market and begin to provide an increasing number of nonregulated services, such as Internet access and the services noted in the FCC's Order, the Commission has concerns that the CAMs currently in effect will not adequately protect the ratepayer from cross-subsidization. Therefore, the Commission solicits comments and suggestions for improvements to the existing small company CAM and orders the ITG to file a proposed revised CAM for its review. TDS and ALLTEL will file a copy of their CAMs as revised to incorporate any changes required by the FCC's order or any future revisions resulting from it. These revisions should address the provisions of telemessaging and alarm monitoring services as well as payphone equipment. Also, any company providing Internet access should provide comments on the procedures they are using to record Internet related costs as nonregulated.

IT IS THEREFORE ORDERED that:

1. BellSouth, GTE, and CBT shall file with this Commission any revisions, modifications, or changes to their current CAMs resulting from the Act or the FCC's Order 96-490, simultaneously with any such filings made to the FCC.

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[5] Leslie County Telephone Company, Inc.; Lewisport Telephone Company, Inc.; and Salem Telephone Company.

2. Within 60 days of the date of this Order, the ITG shall file, for review by this Commission, a proposed revised CAM, including any comments or changes to its current CAM needed as a result of the provision of Internet access or any other service not currently regulated by the Commission.

3. Within 60 days of the date of this Order, TDS and ALLTEL shall file a copy of their CAMs as revised to incorporate any changes required by the FCC's Order and any future revisions resulting from it.

Done at Frankfort, Kentucky this 19th day of March, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

Edw J. Holmes
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director